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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,108	02/15/2002	Olaf Zaencker		8552

29177 7590 12/31/2007
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EXAMINER	
DUONG, DUC T	

ART UNIT	PAPER NUMBER
2619	

MAIL DATE	DELIVERY MODE
12/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/076,108	OLAF, ZAENCKER	
	Examiner	Art Unit	
	Duc T. Duong	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 5-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _ is/are allowed.

6)☒ Claim(s) *1,2 and 5-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 2, and 5-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding to claims 1 and 14-16, there does not appear to be a written description of the claimed limitation **"counting a third number of detected RTP speech packets sent in a direction of the second VoIP endpoint and a fourth number of detected RTP speech packets sent in a direction of the first VoIP endpoint and arithmetically processing the counted third and fourth numbers"** in the specification as filed. It seems like applicant have incorrectly amended the claims by adding new matter for the purpose of avoiding prior art.

3. Applicant should take note that the rejection of claims 1, 2, 5, and 8-23 over Sand in view of Diets would still stand as follows should applicant remove the new matter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 2, 5, and 8-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sand (US Patent 6,521,746 B1) in view of (Dietz et al (US Patent 6,651,099 B1).

Regarding to claims 1, 16, 17, 22, and 23, Sand discloses a system comprising a detecting unit 32, arranged at a detection point on a transmission channel between a first 38 (left-end) and a second 38 (right-end) VoIP endpoints to detect a first number of RTP speech packets transmitted in a direction of the second VoIP endpoint (fig. 3 col. 5 lines 55-62), and to detect a second number of the RTP speech packets transmitted in a direction of the first VOIP endpoint (fig. 3 col. 6 lines 21-22); and an arithmetic processing unit 54 INMD connected on the input side to the detecting unit to calculate a value representing the transmission quality (i.e. speech level, noise, echo, path delay) from the first and second numbers (fig. 4 col. 6 lines 23-28).

Sand fails to teach for the arithmetic processing include a subtraction, where a value 0 for the difference represents the highest quality transmission quality.

However, Dietz discloses a system and method for monitoring traffic in a network, where a set of statistical operations is perform by a calculator on the size and difference (subtraction) of packets transmitted in each direction to determine results that

represent a transmission quality (col. 20 lines 41-55). Though Dietz fails to teach for a result where the value 0 for the difference represents the highest quality transmission quality. It would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ such value for a result since such value for depend more upon the choice of the inventor than any inventive concept.

Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ such arithmetic operations as taught by Dietz into Sand's system to perform analysis and measures on the network usage and performance.

Regarding to claims 2 and 13, Sand discloses a predetermined time period of detection for a 10 Mbit/s transmission channel longer than 5s or 10s (fig. 7 col. 7 line 66-67 and col. 8 lines 1-6).

Regarding to claims 5 and 18, Sand discloses the value representing the transmission quality is subjected to a threshold value discrimination in order to suppress side effects due to features of the communication protocol (col. 6 lines 29-31).

Regarding to claims 8 and 19, Sand discloses the detected first and second numbers and/or the calculated values for a plurality of first and second VoIP endpoints connected to the IP network between which bidirectional speech connections exist in each case are logged (col. 5 lines 63-65).

Regarding to claims 9 and 20, Sand discloses the detected first and second numbers for the first and second VoIP endpoints connected to the IP network within

which bidirectional speech connections exist in each case are subjected to summarizing statistical processing to obtain an overall value representing the overall transmission quality of the IP network or of a section of the overall transmission quality of the IP Network (fig. 5 col. 6 lines 56-67).

Regarding to claims 10 and 21, Sand discloses the value representing the transmission quality is signaled to subscribers at the first and/or second VoIP endpoints and/or to an operation control center of the IP network (col. 6 lines 32-33).

Regarding to claims 11 and 12, Sand discloses the value representing the transmission quality is determined in real-time (col. 5 lines 55-62) and is used as an input variable for controlling the speech transmission over the IP network (col. 6 lines 34-40).

Regarding to claims 14 and 15, Sand discloses a method comprising detecting 32 at a detection point on a transmission channel between a first 38 (left-end) and a second 38 (right-end) VoIP endpoints a first number of RTP speech packets transmitted in a direction of the second VoIP endpoint (fig. 3 col. 5 lines 55-62), and a second number of the RTP speech packets transmitted in a direction of the first VOIP endpoint (fig. 3 col. 6 lines 21-22); and arithmetically process 54 INMD a value representing the transmission quality (i.e. speech level, noise, echo, path delay) from the first and second numbers (fig. 4 col. 6 lines 23-28); and routing the connection between the first and second VoIP endpoints based on the valve 26 (fig. 3 col. 5 lines 1-10).

Sand fails to teach for the arithmetic processing include a subtraction, where a value 0 for the difference represents the highest quality transmission quality.

However, Dietz discloses a system and method for monitoring traffic in a network, where a set of statistical operations is perform by a calculator on the size and difference of packets transmitted in each direction to determine results that represent a transmission quality (col. 20 lines 41-55). Though Dietz fails to teach for a result where the value 0 for the difference represents the highest quality transmission quality. It would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ such value for a result since such value for depend more upon the choice of the inventor than any inventive concept.

Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ such arithmetic operations as taught by Dietz into Sand's system to perform analysis and measures on the network usage and performance.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/21/07

DD

WING CHAN
SUPERVISORY PATENT EXAMINER